

## Fair Housing Laws

### Montgomery County

Chapter 27, Article I of the Montgomery County Code makes it illegal to discriminate in the sale or rental of commercial and residential real estate on the bases of race, sex, marital status, physical or mental disability, color, religion, national origin, ancestry, presence of children, source of income, sexual orientation and age.

The Office of Human Rights investigates and conciliates complaints filed under Chapter 27, Article I. Persons can also file suit in Circuit Court.

### The Federal Government

The Fair Housing Act is Title VIII of the Civil Rights Act of 1968, together with the Fair Housing Amendments Act of 1988. The law makes it illegal to discriminate based upon race, color, national origin, religion, sex, familial status, and disability in the sale, rental, and financing of housing.

The Department of Housing and Urban Development (HUD) investigates and conciliates housing complaints filed under the FHA. Persons who consider themselves to be victims of housing discrimination can also file suit in Federal Court.

### The State of Maryland

Article 49B of the Maryland Annotated Code makes it illegal to discriminate on the bases of race, color, religion, marital status, physical or mental disability, national origin, sex, or familial status.

The Maryland Commission on Human Relations investigates and conciliates complaints filed under Article 49B.

Real Estate Law (BOP, Section 16-526), forbids discriminatory practices by real estate brokers or agents, putting them at risk of losing their license. This law is enforced by the Real Estate Commission.

Equal access to all types of housing is not only a right, but it is the law and policy of this government.

Equal access to all types of housing and real estate has been guaranteed by Federal Law since 1866 and by Montgomery County law since 1968. Although these laws specifically prohibit discriminatory practices, home seekers continue to be plagued by irrelevant factors used to determine their suitability for the housing of their choice. Persistent and subtle forms of misinformation, unfair pricing, steering, and redlining are used to exclude persons from residing in communities and neighborhoods of their choosing. Not only are these practices illegal, they also can be expensive to the victim, community, and housing provider.

Chapter 27, Article I of the Montgomery County code prohibits discrimination in both residential and commercial real estate on the bases of race, color, religious creed, ancestry, national origin, sex, marital status, physical or mental disability, presence of children, sexual orientation, age, and source of income.

## To File A Complaint

### Contact:

Montgomery County  
Office of Human Rights  
(240) 777-8450

U.S. Department of Housing  
and Urban Development  
1-(800) 669-9777

Maryland Real Estate Commission  
(410) 333-6230

Maryland Commission on  
Human Relations  
(410) 767-8600

Language translation and alternative formats of this document are available upon request

### MONTGOMERY COUNTY



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Montgomery County, Maryland  
Office of Human Rights

FAIR  
HOUSING:  
SOURCE OF INCOME  
FAMILIAL STATUS  
OCCUPANCY  
STANDARDS

How to Recognize  
Discriminatory  
Practices



Source of Income

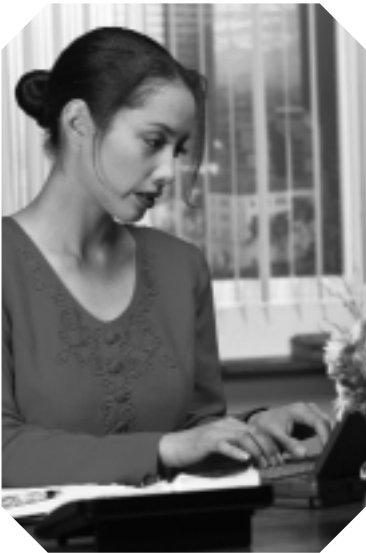
General Guidelines

Housing discrimination based on source of income is prohibited under an amendment to Montgomery County Code, Chapter 27 that took effect in 1991. The amendment bars anyone from refusing to sell, rent, negotiate or otherwise transfer housing because of a person's source of income.

Any lawful source of income paid directly or indirectly to a renter or buyer of housing is protected by this amendment. Sources include any lawful profession or occupation; any government or private assistance, grant or loan program; any gift, inheritance, pension, annuity, alimony, child support or other compensation or benefit; or any sale or pledge of any tangible assets.

The definition also includes participation in a housing subsidy program such as Section 8 Rental Assistance. Under the amendment, a housing provider may not refuse to rent to a person with a Section 8 certificate or voucher merely because the person is participating in the program. The provider may, however, conduct the usual reference and credit checks and reject a prospective tenant based on a negative report if the tenant must pay part of the rent.

A housing provider is not obligated to consider income derived from any criminal activity and may evict or refuse to rent to anyone involved in drug-related or violent criminal activity.



- Any lawful source of income must be considered in determining qualifications for the rental or sale of housing. These sources of income may be verified.
- Section 8 and other subsidy programs are no longer optional in Montgomery County. A housing provider cannot refuse to participate in the program. Housing providers must consider prospects who participate in these programs along side other prospects and applicants.
- Credit checks may be conducted on Section 8 subsidy holders, but if the entire rent is paid by the subsidy, there is no reason to reject the tenant if the credit check is negative because the tenant is not responsible for paying the rent.
- There is no reason to perform an income qualification check on a Section 8 or a subsidized prospect if the prospect does not pay any portion of the rent.
- The reference checks which housing providers run for Section 8 or subsidized tenants must be the same reference checks that housing providers run for unsubsidized prospects.
- A housing provider is not required to rent or sell to a participant in a housing subsidy program merely because the tenant has the subsidy. The law does not provide a preference for persons with housing subsidies over those without subsidies.
- The law does not obligate anyone to accept a cosigner, but if the rental payment or the sales transaction is described as a gift, then this gift must be considered as a source of income and may be verified.
- Housing providers cannot choose a prospect with a particular occupation over another. It would be illegal to refuse to rent or sell to lawyers (because they might sue you) or to prefer psychologists (because they might understand you).



## Familial Status

Chapter 27, Article I of the Montgomery County Code makes it illegal to discriminate against individuals because of their familial status (presence of children). Included in this classification is whether an individual is pregnant, has children, or is in the process of adopting or otherwise securing custody of children.

- You must not:
- ✓ Refuse to rent or sell a house or apartment to a family because of the presence of children;
  - ✓ Require an additional security deposit or charge for families with children that is not required of other residents;
  - ✓ Segregate families with children to a certain area or floor of a complex;
  - ✓ Limit the use of a complex's services or facilities to adults only, except when reasonable safety rules clearly necessitate it; or
  - ✓ Evict a family after a child is born or adopted, unless reasonable occupancy requirements are violated.

The only type of housing that is exempt from the familial status protection is specifically designated "housing for older persons." To qualify as a complex for older persons, a complex must meet the following requirements:

- ✓ All occupants must be 62 years of age or older;
- ✓ Eighty percent of the units in a complex must be occupied by at least one person age 55 or older; or
- ✓ The housing must be funded by the state or federal government as housing for older persons.

## Occupancy Standards

In March, 1991, the Department of Housing and Urban Development (HUD) addressed the issue of occupancy standards in the Keating Memorandum, which states that "...HUD believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act." However, the HUD memorandum goes on to state that a "two people per bedroom" policy may be unreasonably restrictive, depending on other factors, such as the size and number of bedrooms, the overall size of the unit, and other special circumstances. For this reason, caution suggests that housing providers should consider the occupancy standard of two persons per bedroom plus one or more additional persons, depending on the circumstances.

Montgomery County occupancy standards state the following in reference to the designation of rooms as a bedroom:

- ✓ A den with windows must be treated as a bedroom;
- ✓ You must have 70 sq. feet in the bedroom for the first person;
- ✓ You must have 50 sq. feet per person for any additional persons using the same room as a bedroom.

The Montgomery County Code should be consulted for additional requirements.



Fair Housing Is The Law!